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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,721	11/04/2003	Hideki Seki	4041J-000804	2257
27572	7590	03/08/2007		EXAMINER
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				FORD, JOHN K
			ART UNIT	PAPER NUMBER
			3744	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/700,721	SEKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John K. Ford	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11/30/06.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) 2-5, 8, 9 and 13 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1, 6, 7, 10-12 and 14-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11/04/03 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/27/06</u>	6) <input type="checkbox"/> Other: _____

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Applicant's response of November 30, 2006 has been carefully considered. In light of the prior art submitted by applicant, bearing an uncanny resemblance to what is disclosed and claimed here, the new and amended claims are not deemed to be allowable. Two of the references (FR 2778148 and FR 2778151) are so close to the subject matter claimed as to demand translation. It is believed that such translations are readily available to Denso given its extensive patent filings around the world and the examiner trusts that translations will be forthcoming with applicant's response to this office action. An action on the merits as to claims 1, 6, 7, 10-12 and 14-18 follows.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 7 and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either of FR 2778148 or FR 2778151.

Since applicant has submitted highly relevant prior art, without translation, the examiner has been left to guess at precisely what these two references disclose. Nonetheless, it is very clear just from the drawing figures in each of FR 2778148 and FR 2778151 that the claimed subject matter of applicant's broadest claims is clearly disclosed. For example, in regards to claim 1, FR 2778148 shows a heater 12, mixing valve 16, defrost duct 23, face opening duct 24 and foot duct 21. First rotary door 30 and second rotary door 40 are both shown. FR 2778151 appears to be similar but the examiner awaits applicant's forthcoming translation before expressing any definitive opinion on what it discloses. Regarding claim 7, see Figure 6 (opening 80) of FR '148 and Figures 2 and 13 of FR '151.

Claims 1, 6, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of FR 2778148 or FR 2778151 as applied to claims 1, 6, 7 and 10 above, and further in view of FR 2762888 or Shibata (USP 6,261,172).

Figure 3 of FR '888, among others, discloses that the rotary doors such as shown in FR 2778148 and FR 2778151 are typically fabricated with two side plates. Shibata, assigned to Denso, teaches two end plates 23 at opposite sides of a rotary door with an aperture that allows the side face outlet to be left open while the center face opening is closed. To have constructed the second rotary door of the prior art to FR 2778148 or FR 2778151 in the manner taught by Shibata to improve occupant comfort would have been obvious to one of ordinary skill in the art. To have fabricated

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the rotary doors of FR 2778148 and FR 2778151 with two side plates to advantageously make the door stronger by supporting it at both ends would have been obvious to one of ordinary skill in the art in view of either FR'888 or Shibata.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2778148 or FR 2778151 as applied to claims 1, 6, 7 and 10 above, with or without FR  
*or Shibata,*  
2762888<sup>A</sup> as applied to claim 6 above, and further in view of EP 1247668.

EP '668 teaches a sidewall foot outlet at 27 in Figure 1 that would have been obvious to have added to the prior art discussed above (if it isn't already disclosed in FR 2778148 or FR 2778151) for the purpose of improving occupant comfort.

Claims 11, 12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of either of FR 2778148 or FR 2778151 and Shibata (USP 6,261,172).

Since applicant has submitted highly relevant prior art (FR 2778148 or FR 2778151), without translation, the examiner has been left to guess at precisely what these two references disclose. Nonetheless, it is very clear just from the drawing figures in each of FR 2778148 and FR 2778151 that the claimed subject matter of applicant's broadest claims is clearly disclosed. For example, in regards to claim 1, FR 2778148 shows a heater 12, mixing valve 16, defrost duct 23, face opening duct 24 and

foot duct 21. First rotary door 30 and second rotary door 40 are both shown. FR 2778151 appears to be similar but the examiner awaits applicant's forthcoming translation before expressing any definitive opinion on what it discloses. Regarding claim 7, see Figure 6 (opening 80) of FR '148 and Figures 2 and 13 of FR '151.

Shibata, assigned to Denso, teaches two end plates 23 at opposite sides of a rotary door with an aperture that allows the side face outlet to be left open while the center face opening is closed. To have constructed the second rotary door of the prior art to FR 2778148 or FR 2778151 in the manner taught by Shibata to improve occupant comfort would have been obvious to one of ordinary skill in the art. Regarding claims 17 and 18, FR 2778151 appears to teach a construction like this in Figure 13. To have modified the second rotary door of either FR 2778148 or FR 2778151 with the construction shown in Figure 13 of FR '151 to control the amount of air through a side face opening for the purpose of improving occupant comfort (as explicitly taught by Shibata) would have been obvious to one of ordinary skill in the art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Ford whose telephone number is 571-272-4911. The examiner can normally be reached on Mon.-Fri. 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John K. Ford  
Primary Examiner